

**AGREEMENT  
BETWEEN  
EMPIRE VISION CENTER, INC.  
AND  
IUE/CWA  
AND  
LOCAL 81408**

**July 1, 2018**

**TO  
June 30, 2021**

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## **PREAMBLE**

The purpose of this Agreement is to provide an orderly collective bargaining relationship between Empire Vision Center, Inc. (including all Empire Vision Center, Inc. locations doing business under various trade names) and the IUE/CWA and Local 81408, with respect to the Bargaining Unit as defined herein, to secure and promote the prompt disposition of grievances and the efficient operation of the Company's business. This Agreement shall be regarded as a complete and full statement of the relationship between the Company and the Union. The parties agree that all matters and proposals raised in collective bargaining have been disposed of and no issues remain unsettled. No amendment, qualification, change, interpretation or alteration shall be effective unless it is made in writing and signed by duly authorized representatives of the parties who have executed this Agreement.

## **ARTICLE 1** **AGREEMENT**

This Agreement made and entered into this 1<sup>st</sup> day of July, 2018, by and between the IUE/CWA and Local 81408, of PO BOX 3232, Schenectady, New York 12303, hereinafter referred to as the Union, and Empire Vision Center, Inc. with its offices at 175 East Houston Street, 7<sup>th</sup> floor, San Antonio, TX 78205, hereinafter referred to as the "Company".

## **ARTICLE 2** **RECOGNITION**

The Company recognizes the IUE/CWA and Local 81408, its designated agents and representatives, its successors and/or assigns as the sole exclusive bargaining agent in all matters pertaining to wages, hours and other conditions of employment for all full-time and specified regular part-time hourly associates in its retail optical centers in operation as of the date of this Agreement, except as excluded below.

The term associate, wherever used in this Agreement, excludes optometrists, retail management and supervisors (including territory directors, general managers, retail supervisors, regional lab directors, assistant managers, and supervisors as defined under the National Labor Relations Act), trainers, temporary or seasonal associates and individuals whose sole purpose is to support the operation of the vision centers.

Temporary and seasonal associates are defined as those individuals who work less than three (3) consecutive months, who are hired to work on specific projects, or as otherwise defined in this Agreement.

## **ARTICLE 2-A** **FUTURE RETAIL LOCATIONS**

The Company and the Union agree that, in the event, after the effective date of this Agreement:

a. the Company acquires any new retail locations in New York, New Hampshire, Massachusetts, Pennsylvania, or Rhode Island, the hourly associates, who are employed at any such location in the job classifications included in this Agreement, shall be covered by the terms of this Agreement, provided that the Union is certified by the National Labor Relations Board as the bargaining representative for those associates.

b. the Company establishes any new retail locations in New York, New Hampshire, Massachusetts, Pennsylvania, or Rhode Island, the Company shall post available openings through the Article 16 Job Posting procedure under this Agreement before hiring any new associates for that location. If a majority of associates at the new location consist of bargaining unit associates or union members, the location shall be covered by the terms of this Agreement.

c. Stores owned and/or managed by Visionworks entities other than Empire Vision Center, Inc., including stores owned or managed by Visionworks of America, Inc. (f/k/a Eye Care Centers of America, Inc. (ECCA)) and its subsidiaries (other than Empire Vision Center, Inc.) including but not limited to, Visionworks, Inc., Eye DRx Retail Management, Visionary Properties, Inc., and Visionary Retail Management, Inc. are expressly excluded from this Agreement.

### ARTICLE 3 UNION SHOP

It shall be a condition of continued employment that all associates of the Company covered by this Agreement who are members of the Union in good standing on December 1, 2006 shall remain members in good standing. It shall also be a condition of continued employment that all associates covered by this Agreement and hired on or after December 1, 2006 shall, upon the completion of their probationary period, become and remain members in good standing in the Union.

The Company will, within ten (10) working days after receipt of notice from the Union, discharge any associate who is not in good standing in the Union as required by the preceding paragraph.

### ARTICLE 4 CHECK-OFF

1. The Company agrees to deduct each pay period from the wages of associates, who are members of the Union and who have signed authorization cards in the form annexed to this Agreement, the prescribed Union dues and initiation fees levied in accordance with the constitution and by-laws of the Union. The Company shall remit monthly, the amount so deducted to the IUE/CWA, AFL-CIO Headquarters in Washington, D.C. and all initiation fees to the CWA Local 81408, PO BOX 3232, Schenectady, New York 12303.

2. The Union, by one of its officers, shall notify the Company in writing of the amount of such Union dues and initiation fees to be so deducted by the Company, and, for the purposes of this Agreement, the amounts specified in any such notice shall conclusively be presumed to have been established in accordance with the Constitution and by-laws of the Union.

3. The Union shall indemnify and save harmless the Company from any and all manner of claims, demands, suits, actions or other forms of liability which may arise against the Company out of or by reason of the deductions provided for in this check-off article, the payment of the same to the Union or any other action taken or not taken by the Company.

### **ARTICLE 5** **SAVINGS CLAUSE**

Should any part hereof or any provision herein contained be rendered or declared illegal, invalid, or an unfair labor practice by reason of any existing or subsequently enacted legislation, or by any decree of a court of competent jurisdiction, or by decision of any authorized government agency, including the National Labor Relations Board, the parties shall meet and negotiate with respect to substitute provisions for those parts or provisions rendered or declared illegal, invalid or an unfair labor practice.

### **ARTICLE 6** **NON-DISCRIMINATION**

1. The Company and the Union are committed to the principles of equal employment opportunity and to providing a workplace that is free from unlawful discrimination. As such, the Company and the Union agree not to discriminate against any associate on the basis of the person's race, color, religious beliefs, sex, gender, sexual orientation, age, marital status, national origin, ancestry, physical or mental disability or history of disability, genetic information, status as a protected veteran or disabled veteran, activity protected under the National Labor Relations Act, or any other status protected by federal, state or local law.

2. When the masculine pronoun is referred to in this Agreement, it shall be deemed to refer to both male and female associates.

### **ARTICLE 7** **STRIKES AND LOCKOUTS**

1. During the life of this Agreement, or any extensions or renewals thereof, there shall be no authorized suspensions of work by the Union, strikes, picketing, boycott, slow-down, work to rule, or other authorized interruptions of work or interference, coercive or otherwise, with the Company's business. Any disputes that may arise shall be settled under the provisions of the Grievance Procedure herein set forth.

2. During the life of this Agreement or any extensions or renewals thereof, there shall be no lockout of associates by the Company because of labor dispute, and any dispute that may arise shall be settled under the provisions of the Grievance Procedure herein set forth.

3. The Company agrees that it will comply with all laws, regulations and/or government policies governing an associate's right to refuse to cross a picket line established at their work

location when a strike against the employer by a duly recognized collective bargaining representative is in effect.

## **ARTICLE 8** **MANAGEMENT RIGHTS**

1. The Company shall have the sole right to determine the manner and extent to which the facility and equipment it owns, operates, and/or occupies shall be operated, services or employment increased or reduced, including the right to plan, direct and control operations, hire, suspend or discharge and the right to introduce new and/or improved methods, facilities or equipment.
2. It is agreed that all rights which are ordinarily vested in and are exercised by the Company, except those expressly relinquished by the terms of this Agreement, are reserved to and shall continue to be vested in the Company and such rights shall be retained by the Company, except as expressly and specifically abridged, delegated, granted or modified by this Agreement. The Company may issue reasonable rules which shall supplement the Company's *Associate Handbook*, additional written policies, job descriptions and procedures to address any issues not expressly covered within the Articles of this Agreement. While the Company may be guided by the *Associate Handbook*, additional written policies (including the Visionworks policies), job descriptions and procedures to address any issues not specifically set forth in this Agreement, the Union may challenge such decisions through the grievance procedures. In introducing new policies, the Company will notify associates through its electronic communication system, and the Location Manager will review the policies during operational meetings or training sessions (e.g., Saturday morning meetings). The Company will periodically advise associates of the associates' obligation to review Company policies, raise any questions they may have with their manager or Human Resources, and sign off on this policy review process.
3. Department/Location Managers retain the right to work regularly scheduled shifts, additional shifts and extra work to maintain staffing as part of their job duties and as scheduled by the Company. This is not to be used to erode the bargaining unit.
4. The Company reserves the right to add, expand, contract, locate, relocate, or close facilities as necessary. Any changes which may impact the number of associates will be shared with the Union with a minimum of thirty (30) days' notice and within a minimum of twenty (20) days' notice to the affected associates.
5. The Company has the right to insist on attendance by Union associates for training, to include but not be limited to, integrity, regulatory compliance, and procedures. The Company has the right to require that attendance by the Union associates be documented by the signing of a certificate of completion. If such certificate of completion requires anything other than a signature to verify attendance, a copy of the certificate of completion will be provided to the Union in advance. Associates will be notified of all required training at least two (2) weeks in advance of the scheduled occurrence, except in unanticipated circumstances.

6. The Union and the Company understand that there may be past practices in effect. A past practice is defined, for the purposes of this Agreement, as a practice concerning a term and condition of employment that is accepted by both the Union and the Company. Proof of past practice must be unequivocal, clearly enunciated, and acted upon, and readily ascertainable over a reasonable period of time, however, past practice(s) will not supersede any items contained in this Agreement. A failure to act by the Company or the Union does not establish a past practice. The Company shall not issue discipline for violations, which, they have failed to enforce unless the Company has given adequate notice that it is discontinuing the practice. Any changes to a past practice will be subject to good faith negotiations between the parties.

## **ARTICLE 9** **UNION REPRESENTATION**

1. The Company recognizes and will deal with all accredited Stewards and all other Union representatives in all matters which may affect the relationship between the Company and the Union.

2. A written list of Union Stewards shall be furnished to the Company immediately after their designation and the Union shall notify the Company within five (5) calendar days of any changes in Stewards.

3. The number of Stewards may be adjusted by mutual agreement of the Company and Union. The Company will recognize fourteen (14) Stewards. The Stewards will be allowed 5 days off each year on an unpaid basis for Union training. The Union will provide at least 30 days' notice to schedule this time off. There will only be one Steward in any store without approval of the Company.

4. The Company agrees to grant permission, as may be necessary, for the Steward or Union representative to carry out the investigation and processing of grievances. Such arrangements shall include permission for Stewards to leave their job assignment to investigate and/or bring about a proper and expeditious disposition of a grievance in their retail location, department or area designated to their representation.

5. The Company shall pay Stewards their regular hourly earnings for time spent processing grievances during their regular work hours, up to a maximum of one hour per week.

6. In addition to the Stewards described in paragraph 3, the Company will recognize up to two Lead Stewards for the bargaining unit. The Lead Stewards will be assigned to attend to Union business as needed. The Union will provide at least 2 weeks' notice as to the number of hours and dates for Union business, except in emergency situations. The Union will be responsible for pay for the Lead Stewards, except that the Company will pay a total of 16 hours per week of pay to be used by the two Lead Stewards for leave to conduct Union business, as the Union shall determine. To the extent the 16 hours will not be divided evenly between the Lead Stewards, the Union will give adequate advance notice to the Company. The Lead Stewards, in the course of performing Union business, will not be denied access to any location where bargaining unit members work.

7. At the written request of the Union, any member of the Union selected to attend Union conventions shall be given a leave of absence without pay, provided the Company is in mutual agreement of such leave. Requests must be submitted in writing at least thirty (30) days in advance and such time off will not exceed five (5) days per contract year.

8. The Company will pay lost time wages for up to five (5) associates for negotiations at eight (8) hours, three (3) days maximum, or twenty four (24) hours per associate.

9. Up to five (5) officers of the Union Executive Board shall be excused from work for one day, without pay, on a quarterly basis to attend to Union business, except that these excused absences shall not be granted in January, March, August or December. The Union shall provide thirty (30) days' notice of the requested day off.

**Article 10 and 11 Deleted**

**ARTICLE 12**  
**BULLETIN BOARDS**

The Company shall furnish a bulletin board which will be used by the Union for posting Union related information, except no Union bulletin board is required in a small store where the Company does not have a Company bulletin board, and an alternative means of communication (e.g. binder) will be provided.

**ARTICLE 13**  
**PROBATIONARY PERIOD**

1. For all new associates, the first ninety (90) calendar days shall be designated as a probationary period. Upon successful completion of the probationary period, an associate will become eligible for regular employment with the Company. The service date of an associate who successfully completes the probationary period shall be calculated from their original date of hire. The probationary period may not be extended except by mutual agreement between the Union and the Company.

2. During the probationary period, the employment of any individual may be terminated at the discretion of the Company, with or without cause and such termination shall not be a basis for a grievance, nor shall such action by the Company be subject to the grievance procedure.

3. A new associate's probationary period may also be extended for up to sixty (60) days, if it is determined that satisfactory progress in the completion of given responsibilities, has not occurred. This extension, which will be documented on the prescribed form, will be at the mutual agreement of the Company, and the Union. If agreement to extend the probationary period is reached, a copy of the documentation will be provided to the appropriate shop steward and the Union.

4. The probationary period for part time associates will be the first ninety (90) calendar days.

## **ARTICLE 14** **PART TIME STATUS**

1. The Company maintains the right to employ part time associates.
2. A part time status is defined as any associate who works less than thirty (30) hours per week.
3. Part time associates who work or who are scheduled to work an average between twenty (20) and twenty-nine (29) hours over a six (6) month period will receive fifty percent (50%) of contractual earned time benefits and shall pay pro-rated union dues.
4. Part time associates will be eligible for paid sick time, vacation time, holiday pay and personal business days according to the above pro-rata schedule.
5. Part time associates are not eligible for any Company sponsored insurance coverage (medical, life and dental).
6. A review of hours of part-time associates to determine eligibility under this article will be conducted by the Company's payroll department twice each year between the 1st and the 15th during the months of May, and November. The review will be conducted for the previous six (6) months from the date of the review. If an associate satisfies the hour requirements as defined by paragraph three (3) of this article, he/she will be notified of their new status in writing. If an associate is no longer eligible to accrue additional paid time off, his/her accrued vacation and personal time will be paid out. Accrued sick time will be lost and the associate will no longer be paid holiday pay on a pro-rata schedule as defined by paragraph 4 of this article. If an associate has a scheduled vacation that is approved prior to a review of hours, but has no accrued vacation because of the pay out of accrued vacation, he/she may take unpaid time for the approved vacation.
7. If an associate's accrual of paid time off changes under paragraph 6 above, the change will be effective as of the next PTO accrual date and not immediately upon change of status.

## **ARTICLE 15** **SENIORITY**

1. Seniority shall mean the length of continuous service with the Company and represented by Local 81408. Seniority for associates with the same start date will be determined by random selection.
2. Seniority shall be deemed broken:
  - a) When an associate voluntarily terminates employment (including walking off the job). Walking off the job does not include engaging in a strike.
  - b) When an associate is discharged for just cause.
  - c) In the event that a layoff extends beyond one (1) year duration.

- d) When an associate fails to return to work seven (7) days from recall. Recall shall be by registered mail.
- e) When an associate is absent for more than two (2) consecutive work days and/or fails to call in for two (2) consecutive work days, except for an emergency situation which makes it impossible for the associate to do so. The associate must speak personally to their supervisor or their designated alternate.
- f) When an associate resigns from the bargaining unit position for a non-bargaining unit position within the Company, all seniority is lost.

3. If an associate resigns or is terminated, he/she will be entitled to any unpaid time worked. Upon separation from employment, an associate is entitled to any unused vacation time only if he/she resigns with two (2) weeks' notice and does not miss any scheduled time during the notice period, or is terminated under circumstances that do not constitute just cause (e.g., inability to return at the conclusion of an approved leave). An associate who is terminated for cause is not entitled to pay out of accrued vacation.

4. Under the terms of this Agreement, all associates are required to inform their supervisor and the Human Resource Office of any change in their personal status. If a change occurs in any of the following areas, the Human Resource office must be immediately notified.

The following is a sample, but not an exclusive list:

Marital Status	Dependent Status
Home or Mailing Address	Beneficiary Designated
Legal Name	Income Tax Exemptions
Home Telephone Number	Emergency Contact and Phone Number
Immigration and Naturalization Status	

It shall be the responsibility of each associate to keep the Company apprised of any changes.

5. Effective September 1, 2009, an associate's seniority date shall not change if his/her status changes between full and part time.

## **ARTICLE 16** **JOB POSTING**

1. Where a bargaining unit vacancy occurs, the Company shall make a determination whether a vacancy posting shall be issued. Should the Company decide to issue a full time or part-time vacancy posting, such notice shall be posted electronically for five (5) consecutive business days using the Company's recruitment management system. If an associate wishes to be considered for a job opening, he/she must submit an electronic bid for the opening by completing a job bid form and submitting it electronically to the Human Resource Department during the posting period.
2. a. Posted positions will be awarded to the most senior associate in the bargaining unit who meets the minimum qualifications of the job as defined in the responsibility description, and whose attendance, disciplinary history, experience, and past performance

are acceptable to the Company. When a part time associate bids for a job posting, their seniority will be based on hours worked. Any paid time off will be treated as time worked, when calculating seniority. The Company shall advise the Lead Steward of all successful bidders via email within 3 business days. A successful bidder shall be placed in his/her new position within a reasonable period which normally will be 14 days except where business needs require extra time for the transition and the affected associate shall be informed of that specific business need. The Company will not exercise its judgment in an arbitrary or capricious manner.

b. When posting an apprentice optician position, the Company will have identified available sponsor or sponsors in the location, but the Company and the Union recognize that the decision on whether to sponsor a particular person as an apprentice is a decision to be made by the individual sponsor. An associate who is awarded an apprentice optician bid must have a sponsor within ten (10) days of being awarded the bid or else his/her bid is forfeited. An associate who bids into an apprentice optician position shall remain in his/her store in the current position until he/she receives the apprentice permit, and then the associate will be moved within 7 days to the apprentice position. An associate who is already on permit at the time an apprentice opening is posted will not have a preference over other associates in the bidding for an apprentice position.

### 3. Trial Periods

a. Except as set forth in paragraph 3(b), there shall be a trial period of no more than sixty (60) days, for any associate who changes responsibilities as a result of a job posting. If the associate does not successfully complete the trial period, he/she will be returned to his former job at his/her former pay rate. An associate may choose to return to his/her former job at any time during this trial period. Any associate who chooses to return to his/her former job before completing the trial period will be ineligible to respond to future postings for a period of three (3) months for the first unsuccessful posting, six (6) months for the second unsuccessful posting, and one (1) year for each subsequent unsuccessful posting. If the Company returns the associate to his/her former job before completion of the trial period, the associate will be ineligible to respond to future postings for the same position or positions for a period of three (3) months for the first unsuccessful posting, six (6) months for the second unsuccessful posting, and one (1) year for each subsequent unsuccessful posting, but the associate will not be limited in posting for other than the unsuccessful position(s). The Company will not exercise its judgment in an arbitrary or capricious manner.

b. For a bid within the same job classification or down bid to a position in a lower Wage Level, there shall be a trial period of no more than thirty (30) days. If the associate does not successfully complete the trial period, he/she will be returned to his/her former job at his/her former pay rate. An associate may choose to return to his/her former job at any time during this trial period and will be ineligible to respond to future postings for a period of three (3) months for the first unsuccessful posting, six (6) months for the second unsuccessful posting, and one (1) year for each subsequent unsuccessful posting. If the Company returns the associate to his/her former job before completion of the trial period, the associate will have no period of ineligibility to post to other positions.

4. Should the responsibilities become available again, the Company will consider all remaining bids that were filed initially, provided that such bids were received in a timely manner. Jobs vacated prior to the end of the trial period, shall not be reposted as the Company will look to the remaining bids for consideration, should the Company wish to fill the position.

5. Should an associate's new responsibilities pay a higher rate than the responsibilities previously performed, the associate shall receive the higher rate immediately upon placement into the new position. The Company shall have no more than five (5) business days at the completion of the thirty (30) day initial trial period to notify the affected associate as to the Company's determination that the associate has or has not demonstrated the necessary knowledge and skills to perform the job.

6. When no qualified associate is available or there are no bids for a posting, the Company may hire new associates from outside of the organization, or may at the Company's sole discretion, choose not to fill the position. The Company is not required to re-post a position that has been posted with no successful bidder within the prior four (4) months.

7. The Company may, in its sole discretion, choose not to fill any vacant position at any time.

8. Should an associate with a higher skill level post for a position in a lower skill level, the associate's salary may be adjusted to reflect the classification, such adjustment shall be based upon the average wage of the associates within that job title and region, but shall not be less than the rate the associate was paid when he/she previously worked in this job title.

9. Postings that include multiple job classifications at Job levels 1 and 2 shall have the pay rate commensurate with the higher classification. For other postings that include multiple job classifications, the associate will be paid at the higher rate for hours worked in the higher classification. For split positions with different pay rates, the Company will implement a daily record of the hours that the associate works in each job, with associate and General Manager sign off, to allow the associate and the Company to properly track time worked in each job title.

## **ARTICLE 17** **LAYOFF**

1. When a layoff becomes necessary, temporary or otherwise, the Company will provide written notification to the Union with a minimum of thirty (30) days' notice and with a minimum of twenty (20) days' notice to the affected associates.

2. The Company will determine the timing of any layoff, the number of associates to be laid off and the job(s) and location(s) affected. In any layoff ~~work force reduction~~ at any location, the Company may not eliminate more than one full time position without also eliminating a corresponding number of part time positions at that location. For example, the Company may eliminate one full time position at a retail location without reducing any part-time positions or the part-time associates' hours, but may not eliminate two full time positions without first eliminating one part-time position in the same job class and location.

3. All layoffs shall be by seniority within a job classification within a DMA or department.
4. An associate laid off in accordance with this section, may bump any associate with less seniority provided they meet the qualifications of the job. Bumping is confined to positions in retail locations within each DMA from which the associate was laid off. Should an associate with greater seniority, bump an associate of lesser seniority in a lower skill level, the senior associate's salary may be adjusted to reflect a change in classification, such adjustment shall be based upon the 75<sup>th</sup> percentile wage of the associates within that job classification. Associates who bump to a higher level classification will receive the minimum rate for that level or their current rate, whichever is greater.
5. Reductions in Hours: When involuntary scheduled reductions in hours occur in a location, the Company will not reduce the hours of a full time associate below 35 hours in any regular workweek. Nothing in this Agreement provides a guarantee of 40 hours per week to full time associates. A full time associate, who is subject to a temporary involuntary reduction in scheduled hours, shall be able to use accrued vacation or sick hours to offset the reduction in scheduled hours at the discretion of the associate to a maximum of 40 hours per week. If the Company determines to reduce the hours of a full time position below 30 hours per week, it will be treated as a layoff subject to paragraph 2 above.
6. No new associates will be hired for a given location, while layoffs are in effect for that DMA or department, and job classification; it being the intention of the parties that laid-off associates shall be re-hired in the inverse order of layoff before any new associate is hired. If a layoff extends for more than twelve (12) months, the affected associate will be terminated. Any associate re-hired after his/her 12 months of layoff have expired, will begin their association anew and begin at the bottom of the seniority list.
7. Should it become possible to re-hire associates during a layoff (before the 12 months of layoff have expired), associates will be able to respond to the posting for whatever positions are available. If the available responsibilities are of a lesser classification than that of their pre-layoff position, the returning associate's hourly wage may be adjusted to reflect their new responsibilities. Posted positions will be awarded to the most senior associate who meets the qualifications of the job as defined in the responsibility description.

## **ARTICLE 18** **GRIEVANCE AND ARBITRATION**

### **A. GRIEVANCE PROCESS**

Any difference of opinion, controversy or dispute between the Company and any associate concerning rate of pay, wages, hours of employment, or concerning the interpretation or application of this Agreement, and which, in the instance of difference of opinion, controversy or dispute between the Company and any associate, is not settled or adjusted by the Supervisor to the satisfaction of the Union and the associate concerned, shall be considered a grievance.

A grievance shall be deemed untimely if it is not initiated within ten (10) business days (Monday – Friday) from the date the associate becomes aware of the incident. The day of the occurrence shall not be counted as part of the ten (10) day period. If the Union makes an information request within the ten-day grievance initiation period, the time to file the grievance will be tolled and the Union will have ten (10) business days after the Company responds to the information request to initiate the grievance.

The following procedures may be initiated by either party and shall be applied and relied upon by both parties as the sole and exclusive means of seeking adjustment and settling any grievance, except as otherwise specifically provided herein:

Step One - The Union shall reduce the grievance to writing, on a prescribed form to include date filed, article affected, steward name, aggrieved name, type of grievance, description of incident, remedy desired, and request for a Step One meeting. The grievance will be addressed at a conference between the Union Representative/Steward, the Department/Location Manager, and a Company designated representative. If no settlement is reached by the end of the second working day, and at the request of either party, the grievance will be referred to:

Step Two - By conference between the Union Representative/Steward, Department/Location Manager and a designated representative of the Human Resource Department. “Class action” grievances may be presented at the second step of the grievance procedure. A “class action” grievance is understood to mean a grievance common to numerous associates where it would be burdensome and impractical to require the filing of a separate grievance for each of the associates involved. If no settlement is reached by the end of the fourth work day, either party may request that the grievance be referred immediately to:

Step Three – The Company response shall be reduced to writing by a designated representative from the Human Resource Department, or their designated representative within ten (10) business days from the last date of step two. The Company response is submitted to the steward or other Union representative that filed the grievance. If no settlement is reached by the end of the fourth work day after the grievance response is submitted by the Company, the Union may request that the grievance be referred to Step Four or it will be considered dropped.

Step Four – If not resolved, the grievance may be submitted to arbitration with the American Arbitration Association (AAA) in accordance with its labor arbitration rules. Notice of intent to arbitrate shall be given in writing to the AAA and the Company within thirty (30) calendar days of the third step response, unless an extension is mutually agreed to. The Company and Union may mutually agree to eliminate one or more of the foregoing steps, if deemed advisable in a particular case.

In the event that a Steward is unavailable to represent an associate in a grievance, the Union may designate a replacement representative. Such representation may be done by telephone.

The Local Union President or their designee may be present at any point in the grievance process. A representative from the International Union may be present at any point in the grievance process. The time frames herein may be extended by mutual agreement.

B. SELECTION OF ARBITRATOR AND ARBITRATION PROCEDURE

1. The decision of the arbitrator will be binding upon both parties. All fees incident to the services of the arbitrator shall be shared equally by the Company and the Union.
2. By mutual agreement, the Parties can select other alternatives to the American Arbitration Association.
3. The arbitrator shall set a date for the hearing as promptly as possible after his appointment, and shall make his award as promptly as possible after the hearing.
4. In all arbitration cases, the Union may be represented by a Grievance Committee consisting of the Chief Steward, the Location Steward and the Local 81408 President or designee.

C. POWER AND AUTHORITY OF THE ARBITRATOR

The arbitrator shall not have the power or authority to alter any of the terms of this Agreement.

**ARTICLE 19**  
**DISCHARGE OR DISCIPLINE**

The Company shall have the right to discipline or discharge associates for just cause in accordance with the established, reasonable Company rules and regulations, which may be modified from time to time by the Company. In the case of the discharge of an associate, the Company shall furnish the discharged associate a signed statement giving the reason for discharge. The Company shall also supply a copy of the signed statement to the President of Local 81408 as well as the representing steward.

Disciplinary actions, when necessary, will follow a three-step progression as follows:

1. **First Written Warning:** The first time it becomes necessary to address an opportunity for improvement with an associate, there will be a verbal conversation which covers the issue at hand, as well as the expectations for improvement and the time frame in which these expectations should be accomplished. Formal written documentation will be developed on the prescribed warning document and will indicate the time and date of the conversation, parties present, and desired outcomes. Copies of this warning notice, will be placed in the associate's file and provided to the associate in question, as well as the Local 81408 office within one (1) week of being placed in the associate's file.
2. **Second Written Warning:** The second time a given opportunity for improvement is discussed with an associate, formal, written documentation of this incident will be once more developed on the prescribed warning document. Copies of this warning notice, will be placed in the associate's file and provided to the associate in question, as well as the Local 81408 office within one (1) week of being placed in the associate's file.

3. **“Final” Warning:** The third time it becomes necessary to address a given situation with an associate, formal documentation will once more be placed in the associate’s file and provided to both the association and the Local 81408 office within one (1) week of being placed in the associate’s file.

Any additional occurrence of unacceptable behavior, as documented in the aforementioned process, may result, at the Company’s sole option, in more severe discipline, including suspension or dismissal without the need for prior discussion or approval from the Union. Additionally, the Company reserves the right to bypass the aforementioned process and discipline or discharge an associate immediately, for certain causes, as listed in the Company’s *Associate Handbook*. Any modifications to the Company’s *Associate Handbook* regarding causes for immediate discharge will be provided to the Union. Discipline at all steps shall only be for just cause.

Any notes, incident reports or records regarding performance, insubordination, or policy violations created by a Location Manager will be reviewed with the affected associate in a timely fashion. Any documentation related to the aforementioned disciplinary process will remain in a given associate’s human resource file. At the end of a six (6) month period (measured from the date of the most recent occurrence), if there have been no further incidents by the associate, the associate will revert to the prior step in the progressive discipline procedure. All discipline must be issued within twenty (20) calendar days of the occurrence or within twenty (20) calendar days of the Company becoming aware of the occurrence. The parties may agree to a reasonable extension of time based on the circumstances (e.g., involvement of Loss Prevention or associates on vacation, etc.)

When the Company bypasses steps in the discipline process and issues a final warning, if there have been no further incidents by the associate, the associate will revert to the first step at the end of six (6) months. Any prior discipline may be introduced by either party in the event of an arbitration over the associate’s discipline.

Causes for discipline will be categorized as follows:

1. **Attendance/Performance:** All matters relating to opportunities with an associates’ punctuality, consistency in attendance, and performance (including failure to meet productivity and quality standards, or to implement required sales techniques) will be categorized as such. This category will also include excessive, early departures before the completion of the days responsibilities and failure to accurately report times worked or missed on the weekly, payroll time sheets.

The existence of remaining unused sick time or a doctor’s note for an absence without proof of a visit (e.g. payment receipt) does not necessarily preclude an associate from being written up with formal documentation, if such absences are out of the norm, clustered around a short period of time, or an abuse of sick leave, such as, calling out sick after a request for time off is denied.

Any disciplinary documentation related to both the timely and acceptable completion of an associate's responsibilities will be classified in this category of discipline. The job descriptions provided to each associate will serve as the basis for these contentions for improvement.

Failure to work mandatory overtime, when required, may result in disciplinary action.

2. **Insubordination/Violation of Company Policy:** All matters related, but not limited to, unacceptable interpersonal encounters as outlined in the Company's *Associate Handbook*, refusal to perform responsibilities as outlined in the responsibility description, physical or verbal abuse, sabotage of productions results, etc., will be classified as insubordination and addressed accordingly. Any modifications to the Company's *Associate Handbook* regarding unacceptable interpersonal encounters will be provided to the Union.

Documentation of disciplinary actions and for regression is not mutually exclusive by category.

Any breach of State or Federal privacy regulations, breach of security, inappropriate use of protected health information (including, but not limited to, conversion of company assets such as member identification numbers), misleading or deceptive statements on applications for insurance, employment, or other paperwork, or health care fraud shall be cause for immediate dismissal without warning.

## **ARTICLE 20** **SAFETY AND HEALTH**

1. The Company, in accordance with all Federal, State and Local safety laws, rules and regulations, agrees to maintain a safe and healthful work environment for its associates. In accordance with the above, associates must observe all Company safety procedures and use of safety equipment, as well as all State and Federal regulations. In this regard, associates must be alert to any and all unsafe conditions which may exist in the retail unit that could lead to injury. All unsafe conditions must be promptly brought to the attention of the Department/Location Manager.

2. An associate who is injured or becomes ill while at work, should report it immediately to the Department/Location Manager, regardless of how small or insignificant the injury may seem, so that the associate may receive proper medical attention, the cause of the injury may be addressed, and documentation may be completed. In the event that the accident or injury happened at work and required medical attention after going home, the associate must call their Department/Location Manager advising what care was needed. The Company and the Union encourage all associates to adopt a strict regard for "safety" as part of their individual responsibility.

3. The Company, in accordance with regulations established by the Federal government, have identified certain chemicals as hazardous. Material Safety Data Sheets (MSDS) shall be available. Associates are required to follow the established procedures for handling any

chemicals as designated in order to minimize any danger associated with the use of such chemicals.

4. The associate's responsibility is to observe and obey safety rules. The following is a sample, but not exclusive, listing of safety standards:

- Prior to using any equipment or materials, associates must read the instructions or have been properly instructed in the use of the equipment.
- The Union shall encourage common sense and safe, professional behavior.
- As prescribed by OSHA, all associates must use safety eyewear and any other protective devices as needed or directed by the Department/Location Manager. An initial pair of safety eyewear will be supplied by the Company. Associates shall incur the cost of any replacement. Associates not possessing the appropriate eyewear will not be permitted to work.
- Unauthorized repairs to machinery are prohibited.
- Associates must turn off and disconnect machinery from power source, consistent with the training for lock out, tag out procedures before cleaning, clearing jams, or making authorized equipment repairs.

Company shall have the right to establish dress code procedures necessary to protect the safety and welfare of all associates. Associates may not wear loose clothing, jewelry, or open-toed shoes, or other items that will cause a safety hazard. Associates must follow the dress code for their particular department as well as the guidelines established in the Company's Associate Handbook, which may include regular use of laboratory coats.

5. The Company shall perform air quality and internal mold/bacteria evaluation studies for work locations based on a reasonable request. Studies shall be forwarded to the Union when received from the licensed professional contracted to perform the task.

## **ARTICLE 21** **WORKING CONDITIONS**

If an associate is aware of an unsafe working condition, they should report it to their Department/Location Manager. If there is no response, the steward should bring the matter to the attention of the Director of Human Resources at 2921 Erie Blvd. East, Syracuse, New York 13224 and the Local 81408 union office at PO BOX 3232, Schenectady, New York 12303.

## **ARTICLE 22** **WORK SCHEDULE**

1. Work Week - The regular work week shall be Sunday through Saturday. The Company retains the right to alter the work schedule to accommodate business needs. Every reasonable effort will be made, by all managers, to make schedules available two weeks in advance.

2. Breaks – For full-time associates, the Company shall grant a fifteen (15) minute break in the first four (4) hours of the shift, a thirty (30) minute lunch break, and a fifteen (15) minute

break in the last four (4) hours of the shift. At no time, shall a break be taken that will interfere with serving a customer.

3. Overtime - One and one half times the regular hourly wage shall be paid for all hours worked and/or holiday paid in excess of forty (40) hours per week. All paid time off except holidays is expressly excluded from hours worked. Associates that work on Sunday shall receive one and one-half times their regular hourly rate for all hours worked. When work is performed on a holiday (as designated by this Agreement), associates shall receive payment for the holiday at their straight time hourly rate plus one and one-half times their regular hourly rate for all hours worked on the holiday, as defined by the Company's holiday schedule.

4. Overtime Scheduling – Overtime will be offered on a voluntary, rotating basis starting with the most senior associate(s) so that each associate will be offered overtime before the most senior associate is again offered overtime. If there are not a sufficient numbers of volunteers as may be required, the Company may invoke mandatory overtime, in reverse, rotating order of seniority using the same method as for voluntary overtime. Failure to work mandatory overtime, when required, will be cause for disciplinary action. Associates with approved time off are excused from mandatory overtime.

## 5. Disruptions to Production

- a. In the event that the Company deems it necessary to close a location due to adverse conditions (weather, system/equipment outages, etc.) prior to the start of the workday, associates will not be paid for the hours they were scheduled to work, but may use a sick, personal or vacation day to make up scheduled hours. Alternatively, the associate will have the option to take unpaid time. The Company will also use reasonable efforts to schedule associates to make up time missed under this provision in the same payroll period, based on business needs and seniority, which may include assignments to stores other than the associate's home store. An associate has the option to decline assignment to another store. The total alternative assignment plus paid time off cannot exceed the total time missed due to the adverse conditions. The Company shall provide at least one (1) hour prior notice when a location is closed due to weather.
- b. If the Company decides to close a location during the course of the workday, in order to ensure the safety and well-being of our associates, all associates will be paid for the hours they worked as well as the balance of the hours they were scheduled to work, up to a maximum of eight (8) hours for any period of continuous closure.
- c. Should the location open when the weather is threatening, only those associates who reported for work will be paid for the full hours they were scheduled to work, up to a maximum of eight (8) hours, whether or not it should become necessary to close later in the day. Those associates who do not report for work when a location is open, may use a sick, personal or vacation day to make up the time missed, and will not be disciplined for a reasonable decision not to report to work because of inclement weather.

- d. If an associate has a scheduled vacation that is approved prior to a disruption to production, but has insufficient accrued vacation because of the required use of paid vacation during the disruption, he/she may take unpaid time for the approved vacation.

All production based incentives, which exist, will still apply, regardless of unscheduled closures.

## **ARTICLE 23** **VACATIONS**

1. Current, full-time associates will be allocated paid vacations on the anniversary of their hire date as a full time associate and according to the schedule below:

<u>LENGTH OF SERVICE</u>	<u>VACATION ALLOCATION</u>
At <u>least</u> 1 year, but less than 3 years	2 weeks
At <u>least</u> 3 years, but less than 8 years	3 weeks*
More <u>than</u> 8 years, but less than 16 years	4 weeks*
More than 16 years	5 weeks*

2. The Company agrees to pay each associate their vacation pay, the pay day prior to the beginning of their vacation period, if requested on the vacation request forms currently used in accordance with Company policy.

3. Vacations must be taken within the twelve (12) month period following allocation. Vacations cannot be carried over into the succeeding anniversary year.

4. Request for vacation must be presented to Department/General Managers at least thirty (30) days, but not more than one hundred-twenty (120) days prior to the date of the beginning of the vacation period. Effective January 1, 2010, associates will be able to place their requests through the eye portal and retain a printed copy with time and date. Upon receiving a request for vacation, the Company must answer the request within ten (10) working days from the date the request is received by the Department/General Manager. If no response in ten (10) days, the associate should bring it to the attention of the Human Resource Department. The Human Resource Department will respond within two (2) work days. If two or more associates present a vacation request for the same time period within seven (7) days of each other, the Company will approve the vacation request from the associate with greater seniority. Nothing shall prevent a vacation request that is not submitted in accordance with this paragraph from being considered by the Company.

- \*5. a. Associates shall have the option of taking one (1) week of pay in exchange for one (1) week of vacation, subject to the approval of the Company based on demands of the business.

- b. Associates with 5 weeks of vacation allocation shall have the option of taking up to two (2) weeks of pay in exchange for two (2) weeks of vacation, subject to the approval of the Company based on demands of the business.

6. The Company reserves the right to approve/deny vacation based upon the demands of the business. If, based upon the demands of the business, the Company denies a vacation that would otherwise be lost by expiration of the eligibility period, the Company may choose to either extend the eligibility period, or pay the associate for the vacation time and allow him/her to continue working. The option chosen will be up to the discretion of the Company.

7. Vacation time does not carry forward to the next year unless approved in writing in advance.

8. Scheduled vacation time must be used in blocks of at least four (4) hours at a time. Associates may use vacation time in smaller blocks as approved by their location manager on an unscheduled basis.

9. Part-time union associates who average more than twenty (20) hours a week are entitled to vacation time on a pro-rated basis, as referenced in Article 14.

10. Scheduled vacation is limited to one week at a time during the period June 1 to the third Saturday in September.

11. The Company and the Union recognize that there are times of high seasonality that require the retail stores to have a full workforce. In the past, associates have made personal plans and arranged vacations for times during high seasonality when the Company was then unable to grant time off, which frequently caused hardships for the associates. This provision will establish timeframes to help all associates plan their paid time off around those particular times and avoid those problems.

a. The times for high seasonality will be defined by weeks and times of year. Due to the shift of the calendar, dates may vary from year to year. The Company will establish the exact dates of high seasonality each year in conjunction with the Holiday Schedule.

b. High Seasonality for the retail stores are:

- A two-week period during the last 2-3 weeks of August through the first 7-10 days of September for Back to School; and
- the last week of December or “Week 52” for year-end vision benefit use.

High Seasonality for the retail labs are:

- a two-week period during the last 2-3 weeks of August through the first 7-10 days of September for Back to School; and
- beginning two (2) to four (4) days following the closure for the Christmas holiday and continuing through the first week in January (due to the Central Lab closure of Christmas Eve and Christmas Day).

c. Associates and their supervisors should expect that no paid time off will be approved during periods of high seasonality. Associates should plan to work a full schedule during these periods.

- d. On an exceptional basis, the Company may grant days off during one of the high seasonality periods if the coverage is available and the Company can meet the needs of the business. Associates should expect that circumstances that they can control (e.g., scheduling vacation) will not be a basis for time off. Exceptional circumstances will typically involve situations that the Company and the Union timely agree are beyond the associate's control.
- e. Paid time off requested for dates outside of high seasonality times will continue to be administered based on available coverage and seniority under the terms of the Collective Bargaining Agreement and the Scheduling Policy.

## **ARTICLE 24** **HOLIDAYS**

1. The following are recognized holidays and associates shall be paid eight hours of pay at their rate for the following holidays:

New Year's Day (double pay)  
 Memorial Day (double pay)  
 Independence Day (double pay)  
 Labor Day (double pay) (as of 2016)  
 Thanksgiving Day (double pay)  
 Christmas Day (double pay)  
 Associate's Birthday\*

The Company may establish operating schedules on these recognized holidays, but only for present and future stores where the lease arrangement requires that the store be open for the holiday. Holiday work assignments will be scheduled according to seniority and reasonable advance notice will be given to associates regarding those operating schedules. In addition, for any existing store that is not at present open on holidays, but that is moved to a location where the lease requires holiday schedules, the Company will provide the associates in that store with at least 120 days advance notice of the move to the new location.

2. In order to receive pay for the above holidays, the associate must have worked his scheduled shift on the day before and the scheduled day after the holiday. If an associate is ill and provides a doctor's note at the start of his/her shift upon returning to work, or if a manager can verify the illness, they will be eligible for pay. Teladoc notes or receipts are not acceptable to verify illness under this paragraph.
3. For Labor Day 2015, retail associates, who otherwise qualify for holiday pay on Labor Day shall receive eight hours pay at their regular rate for Saturday of Labor Day weekend, which pay shall not be counted in the computation of overtime. Effective with Labor Day 2016, associates shall receive double pay for Labor Day and will not receive the eight hours pay for the Saturday of Labor Day weekend.

4. Associates who work on the Saturdays of either Memorial Day weekend in 2016 or Labor Day weekend in 2015 shall be paid time and one-half (1-1/2) for the hours worked on those days, even though the hours may be part of their regular schedule for the week and not hours worked over 40. (On the Saturday of Labor Day weekend, this pay is in addition to the eight hours pay provided in paragraph 3 above.) Effective with Labor Day weekend in 2016, associates shall be paid straight time pay for hours worked on the Saturday of Memorial Day and Labor Day weekends.
5. In scheduling for the Saturdays of Memorial Day and Labor Day weekend, the opportunity to volunteer to work shall be offered in seniority order beginning with the most senior associate in the location in each position until the designated number of associates is identified. If an insufficient number of associates volunteer for these assignments, then the positions shall be filled in reverse seniority order beginning with the least senior associate in the location in each position. These Saturday assignments shall be part of the regular schedule for the week. By way of example, a full time associate who volunteers to work or is otherwise scheduled to work on the Saturday will typically be scheduled off another day (Monday through Friday) of that week. For purposes of this paragraph, travelers' seniority will be considered within their home store.
6. Each associate shall be paid for the five (5) additional days' pay, as listed above, during each year of this Agreement. The double pay portion of the holiday shall not be counted in the computation of overtime.
7. Should any of the holidays listed in this Agreement fall on an associate's day off, the associate shall receive another day off as his/her day off during the same pay period in which the holiday falls.
8. Associates who are former members of the U.S. Armed Forces will receive Veterans' Day as a paid day off.

\* If an associate's birthday lands on the associate's day off, management is unable to accommodate the day off due to business needs, or the associate chooses to work on their birthday, the associate may request another day off during the calendar year. If more than one (1) associate in a location has the same birthday, the day off shall be granted to the associate with the most seniority, provided they wish to have that particular day off. The associate with less seniority may request another day off.

## **ARTICLE 25** **SICK PAY**

All regular full time associates, that have completed the probationary period by December 1, shall be granted a total of five (5) days sick leave with pay each December 1<sup>st</sup> to November 30<sup>th</sup>.

Part-time union associates averaging twenty (20) hours or more per week, will receive sick time on a pro-rated basis, as referenced in Article 14.

All accrued unused sick leave shall be paid to eligible associates two (2) weeks before Christmas each year.

In the first year of employment prior to December 1, associates accrue sick time benefits at the rate of one (1), eight (8) hour day, on the first (1<sup>st</sup>) of each month, after completing a ninety (90) day probationary period, until the yearly maximum benefit is accrued. The accrual of sick time renews December 1 each year.

All sick time should be reported as soon as possible, but not less than one (1) hour prior to the associates regularly scheduled start time, to their Department/Location Manager. Associates are required to call in daily and speak directly to their Department/Location Manager, or any management designee in their absence (unless a leave of absence has been granted). Leaving a voice mail message for your Department/Location Manager is only acceptable when followed up with a phone call directly with your support by 12:00 noon. A text message is not acceptable notice. When calling, associates should advise their Manager of the following: the reason for the absence, the estimated length of absence, the status of work assignments, (if applicable), and where they can be reached.

Sick time is available for personal illness or the illness of a dependent.

In all cases of two (2) or more consecutive (consecutive scheduled days of work) days of absences due to illness, injury, or where a safety or health risk may be present, associates are required to submit a doctor's note to their Manager upon returning to work. Any unexcused absence (an absence without a doctor's note) may serve as the basis for disciplinary action. Five unexcused absences, tardies and/or early departures in six months is considered unacceptable and will be the basis for discipline.

Associates must forward these doctor's notes to their Department/Location Manager and/or Human Resources when such certificates are required. Associates will be required to use their accrued paid time off while on FMLA and disability leave.

Associates who call off sick and who have no accrued sick time will be charged with the use of other accrued time (*e.g.*, vacation and personal time).

The Company and the Union agree to operate in compliance with the provision of the Family Medical Leave Act, and any applicable laws regarding paid sick leave, except this Article is in lieu of the provisions of the New York City Earned Sick Time Act (Title 20, chapter 8 of the N.Y. City Admin Code, §§ 20-911 et seq.) and the parties agree that the statute is expressly waived pursuant to § 20-916, since comparable paid time off benefits are conferred by this Article and Articles 23, 24 and 26 of this Agreement.

In accordance with the New York State Paid Family Leave Act ("PFLA"), as it is phased in and amended from time to time, the Company and those associates employed in New York who are eligible under the PFLA shall have all of their respective rights and obligations under the PFLA. The Company shall make payroll deductions in accordance with the PFLA. If any other state enacts an applicable family leave statute, the Company will apply the law to eligible associates in those states. Any leave that qualifies under the PFLA or other applicable state law and the FMLA shall run concurrently.

## **ARTICLE 26** **PERSONAL DAYS**

Personal days are granted to associates for the purpose of conducting personal business which cannot be taken care of during the hours of work.

- Associates with at least one (1) year of service shall receive three (3) personal days on August 12<sup>th</sup> each year of this Agreement. Associates with seven (7) years or more of full time service with the Company, shall be entitled to four (4) personal days on August 12<sup>th</sup> each year of this Agreement.
- Personal days do not accumulate from year to year.
- Associates with less than one (1) year of service will be granted one (1) personal day at the end of six (6) and nine (9) months of service.
- Personal days will be approved at the discretion of management with at least seven (7) calendar days advance notice. In the case of an emergency, every effort will be made to accommodate the associate's request.

Part-time union associates who average twenty (20) hours a week or more, with less than one (1) year of service, will be granted one (1) personal day at the end of nine (9) months of service.

## **ARTICLE 27** **JURY DUTY**

1. An associate must notify his Department/Location Manager no later than his first scheduled work shift following receipt of notice of selection for jury duty or examination. The Company may request that the associate be excused, exempted or rescheduled from such jury duty if, in the opinion of the Company, the associate's absence for the purpose of jury duty would create an operational hardship for the Company.
2. Unless a longer period of time is specified by State law, the Company will pay for up to ten (10) days of full pay within a twelve (12) month period for jury duty.
3. An associate selected for jury duty who is on other than the "A" shift will be assigned to the "A" shift for those days on which he is required to serve as a juror.
4. Associates are expected to work all available, reasonable hours outside of those actually required for jury duty or jury examination. This shall include "on-call" time.
5. In order to be eligible for such payment, the associate must furnish a written statement from the appropriate public official showing the dates and time served and the amount of pay received from the court.

## **ARTICLE 28** **BEREAVEMENT LEAVE**

An associate who is scheduled to work may be excused from work because of a death in his immediate family. If excused, he shall be paid an allowance for the hours he is scheduled to work Monday through Sunday, not to exceed eight (8) times his hourly base rate of pay for each day excused, for not more than three (3) days.

Time off with pay as provided in this section is intended to be used for the purpose of handling necessary arrangements and attending the funeral of the deceased member of the family.

Immediate family for the purpose of this section is defined as mother, father, spouse, son, daughter, brother, sister, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandmother, grandfather, great grandmother, great grandfather, grandchildren, spouse's grandparents, step-children and step-parents, and domestic partners, as defined under the medical program.

Upon the death of an aunt, uncle, niece, nephew, or cousin, associates may be granted one half (1/2) day of paid bereavement leave. In addition, the associate may request one half (1/2) day of personal or vacation pay, and if the associate does not have accrued personal or vacation may take the one-half day unpaid.

## **ARTICLE 29** **BENEFITS**

Effective for the duration of this Agreement, the Company shall offer bargaining unit associates the opportunity to participate in the Visionworks benefits program as offered to other Visionworks associates (which includes medical, dental, vision, short term disability, long term disability and life insurance). Benefit contributions shall be consistent with those contributions required of the Company's non-bargaining unit associates. The Visionworks benefits program reserves the right to change carriers, benefits, and coverages.

### **Article 30, 31, and 32 Deleted**

## **ARTICLE 33** **SEVERANCE PAY**

The Company agrees to pay one (1) week of severance pay for every year of full-time service with a minimum of four (4) weeks and a maximum of thirty-two (32) weeks only to eligible retail associates.

Associates with less than one (1) year of full-time service are not eligible for severance.

Full time Associates are eligible for severance when they are laid off due to the elimination of their position or being bumped by another associate, including in connection with the closing of

a department or retail location. The Associate must sign a release of claims as an eligibility requirement for payment of severance.

If an associate exercises his/her bumping rights under Article 17 and is successful, the associate is not entitled to severance pay. If an associate is rehired from layoff under paragraph 7 of Article 17, any severance payment ends upon rehire; any prior balance of accrued sick leave or personal time is restored upon such rehire.

Any associate who loses their job for any of the reasons listed in this Article, must notify the Company within three (3) business days from the time they are notified of their layoff, if they intend to use their bumping rights.

The Union acknowledges and agrees that, in exchange for the enhanced severance schedule in this Article, the Union hereby knowingly and voluntarily waives any right to engage in any decision bargaining or effects bargaining concerning any Company decision (including any future decision) that results in the payment of severance pay under this Article. This waiver as to effects bargaining includes, but is not limited to, severance pay, recall rights, job placements and any other benefits (other than benefits mandated by statute or provided for in this Agreement).

If an associate, who is laid off under this Agreement, is offered a position at another Visionworks location, the associate will have the option to accept the new position or severance pay under this Article, but not both.

The Company can recall an associate to the location and position from which the associate was laid off and if the associate declines, his/her severance ends.

## **ARTICLE 34** **RETIREMENT PLAN**

1. a. Effective July 1, 2018, the Company shall contribute seventeen dollars (\$17.00) per forty (40) hour work week to the IUE-CWA 401(k) Retirement Savings and Security Plan (the “401(k) Plan”) set up for all full time associates covered by this Agreement.

b. Effective July 1, 2020, the Company shall contribute eighteen dollars (\$18.00) per forty (40) hour work week to the 401(k) Plan set up for all full time associates covered by this Agreement.

2. The aforementioned contributions shall not be reduced by a pro-rata share per hour of unpaid time off for full time associates who work at least thirty (30) hours in a particular week. The aforementioned contributions shall be reduced by a pro-rata share per hour of unpaid time off, for associates who work under thirty (30) hours in a particular week.

3. In the event of any default in payment by the Company, the cost of expense of arbitration fees and attorney's fees shall be borne by the Company.

## **ARTICLE 35** **WAGES**

During the life of this Agreement, wages and wage increases will be paid as outlined below:

### MINIMUM WAGE RATES

<b>Level 1</b> <b>Contact Lens Assistant, Optical Assistant</b>			
<b>Year<sup>1</sup></b>	<b>Upstate NY/PA<sup>2</sup></b>	<b>LI/Westchester/MA/RI/NH<sup>3</sup></b>	<b>NYC</b>
2018	\$11.10	\$12.00	\$13.00
2019	\$11.80	\$13.00	\$15.25 <sup>4</sup>
2020	\$12.50	\$14.00	

  

<b>Level 2</b> <b>Lab Apprentice, Apprentice Optician (Ophthalmic Dispensing Trainee), Optician (PA and NH)</b>			
<b>Year</b>	<b>Upstate NY/PA</b>	<b>LI/Westchester/MA/RI/NH</b>	<b>NYC</b>
2018	\$11.75	\$13.00	\$13.50
2019	\$12.25	\$13.50	\$15.50 <sup>4</sup>
2020	\$13.00	\$14.50	

  

<b>Level 3</b> <b>Lab Journeyperson</b>			
<b>Year</b>	<b>Upstate NY/PA</b>	<b>LI/Westchester/MA/RI/NH</b>	<b>NYC</b>
2018	\$16.50	\$19.00	\$19.00

  

<b>Level 4</b> <b>Licensed Opticians</b>			
<b>Year</b>	<b>Upstate NY/PA</b>	<b>LI/Westchester/MA/RI/NH</b>	<b>NYC</b>
2018	\$19.00	\$22.00	\$22.00

\$.25 per hour for future positions designated as subject to a bilingual stipend.

The minimum for opticians with ABO certification in non-licensed states shall be \$14.50/hr.

The minimum for licensed opticians with 10 years of service with the Company in the licensed optician classification shall be \$20.00/hr., effective October 1, 2009.

A position that is designated as a Traveler shall receive an additional one dollar and twenty cents (\$1.20) per hour, while serving as a Traveler. A Traveler position is one that is regularly

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<sup>1</sup> Adjust minimums as of first payroll period after July 1st, except as noted in footnote 4.

<sup>2</sup> Upstate NY includes Poughkeepsie and Kingston

<sup>3</sup> Includes Yonkers and West Nyack

<sup>4</sup> Minimum increase as of 12/31/18

assigned to three or more stores and excludes a Master Lab Journeyperson. If an associate is no longer employed as a Traveler, the Traveler stipend is removed from his/her hourly pay.

#### ANNUAL WAGE INCREASES

The Agreement shall be for the period of July 1, 2018 through June 30, 2021 and wage increases will be (for associates who have completed their probationary period):

Year 1	3%
Year 2	2.5%
Year 3	3%

effective with the first payroll period on or after July 1 of the each contract year. Associates will receive the greater of the minimum wage for his/her level or the annual percentage increase, but not both,

#### OTHER WAGE PROVISIONS

1. Associates transferred or promoted into a higher level will receive the minimum rate for that level or an increase of fifty cents (\$0.50) per hour, whichever is greater.
2.
  - a. Associates that become Company certified in contact lenses after August 12, 2000, through the Company's internal certification program, will receive an increase of fifty cents (\$0.50) per hour. The number of certified contact lens assistants in each office will be based on the business needs of the office. The Company shall make every reasonable effort to maintain a minimum of one certified contact lens assistant in each location, except for stores in Rhode Island, New Hampshire and Massachusetts. The contact lens assistant may be part time or a split position. The Company will facilitate this internal certification of all associates that are involved in contact lens duties, including travelers.
  - b. Certified Contact Lens Assistants that are sponsored and enrolled in a program of state licensure for contact lenses shall receive at least fifty cents (\$.50) premium over the Apprentice Optician minimum wage upon assuming apprentice duties. If the associate withdraws from, or fails, the state contact lenses licensure program, the 50 cents stipend is removed from his/her hourly pay.
3. When an Optical Assistant is designated as Lead Optical Assistant on a regularly assigned basis, he/she shall receive an additional fifty cents (\$0.50) per hour, while serving as a Lead Optical Assistant. If an associate is no longer employed as a Lead Optical Assistant, the Lead Optical Assistant stipend is removed from his/her hourly pay.

4. If an associate works in a higher level position for three (3) consecutive days, or twenty-four (24) consecutive hours (excluding overtime hours), they will be paid the rate of the classification they are working in or their pay rate, whichever is higher.
5. If an associate travels outside his/her regular office he/she will be paid pursuant to the Internal Revenue Service published mileage reimbursement rates when using his/her own vehicle, except that, for travelers, mileage reimbursement will be specified in the job posting.
6. The Company shall facilitate the appropriate relationship between apprentice opticians and the individuals responsible for their conduct and training consistent with the applicable laws, regulations, and industry practices. The Company shall provide a program of a minimum of 40 hours hands on lensometer and eyewear fabrication training within 60 days of an associate assuming an Apprentice Optician position. No keratometer and slit lamp training shall be provided, unless required by state law.
7. Apprentice Opticians shall receive additional increases based on the following schedule:

Once an associate has accepted responsibilities as an Apprentice Optician, enrolls in the Approved Career Progression Program (CPP) and applies for a NYS/MA apprentice optician permit, increases are as follows:

1. Upon passing the CPP volume 1 test – \$0.25/hour increase
2. Upon passing the CPP volume 2 test – \$0.25/hour increase
3. Upon passing the CPP volume 3 test – \$0.25/hour increase
4. Upon passing ABO exam – \$0.50/hour increase AND \$500.00 lump sum bonus

Documentation of passing CPP volume tests, ABO exam and licensure must be provided before any increases are processed. An associate may not receive these increases more than once.

8. a. For apprentice bids posted on or after January 1, 2016, apprentice opticians are obligated to progress through the apprenticeship program at a reasonable pace. Apprentice opticians who do not complete each step in the program according to the following schedule (unless a longer period is required by applicable state law) may be moved to another position or discharged at the discretion of the Company:
  - i. Pass the CPP volume 1 test within 6 months of being placed in the Apprentice Optician job;
  - ii. Pass the CPP volume 2 test within 12 months of being placed in the Apprentice Optician job;
  - iii. Pass the CPP volume 3 test within 18 months of being placed in the Apprentice Optician job;
  - iv. Pass the CPP volume 4 test within 24 months of being placed in the Apprentice Optician job;

- v. Pass the ABO exam within 30 months of being placed in the Apprentice Optician job.
  - b. Apprentices Opticians who do not receive their licenses after two and one-half (2½) years of employment with the company, unless a longer period is required by State law, may be discharged or moved to another position by the Company. The Company, at its sole discretion, may extend the timeframe from two and one-half (2½) up to four (4) years.
  - c. Apprentice Opticians do not automatically move from Level 2 to Level 3 upon receiving their license as an optician. Apprentice Opticians who become licensed, must post for any open Optician position within a forty-five (45) mile radius of their home.
  - d. A Licensed Optician who received any reimbursement from the Company for expenses related to becoming licensed or fees directly paid by the Company to an agency for the purpose of the associate becoming licensed under the current policy and voluntarily terminates his/her position within one (1) year from the date they become licensed must reimburse the Company for all reimbursed or directly paid expenses within thirty (30) days from the date of termination.
9. Lab Apprentices shall receive additional increases of \$.25 per hour quarterly in the first pay period in February, May, August, and November. The additional quarterly lab apprentice pay increases are only applicable to the first one (1) year as a lab apprentice consistent with the current lab apprentice program.
10. All skills and certification testing may be observed by a Union representative or a Master Journeyperson. The Company shall provide reasonable notice.
11. Once a Lab Apprentice's Certification is completed, he or she must post for any open Lab Journeyperson position within a forty-five (45) mile radius of their home.
12. It is agreed that nothing in this collective bargaining agreement in any way shall prevent the Company from granting at its sole discretion an associate, or associates, merit increases. The Company will provide the Union with timely notice of all merit increases with the basis for the increase. This provision is not subject to the grievance and arbitration provisions of this Agreement.
13. The Company shall continue its practice of supporting licensed opticians' continuing education.
14. Wage Overpayments --In the event that an associate is overpaid, the associate shall repay the overpayment over the same period of time for which the associate was overpaid with the overpayment issue resolved in the calendar year of the overpayment to the extent feasible. As an example, if an associate is overpaid in only one pay period, he/she will repay the full amount in one pay period. Similarly, if the overpayment extends over two months, the associate will have two months to repay the overpaid amount due to the Company.

## APPRENTICESHIP PROGRAM

The apprenticeship training classes that the Company has developed will be made available on a voluntary basis at locations accessible to all territories effective by January 1, 2016.

## INCENTIVES

During the term of this Agreement, the Company will continue a sales incentive program, but reserves the right to establish, modify, and/or discontinue any particular sales incentives or SPIFFs, on a semi-annual basis. The Company shall provide the Union and the affected associates with at least one week's advance notice of any change in any sales incentive.

In licensed states, associates who are licensed may claim lens incentives. In addition, in licensed states, associates on permit (apprentices) may also claim lens incentives.

Supervisors and associates shall strive for a fair and equitable distribution of incentive opportunities consistent with good customer service.

The Company agrees to provide associates with information on daily incentive earnings.

## MASTER LAB JOURNEYPERSONS

When a lab journeyperson is designated as a master lab journeyperson, he/she shall receive an additional \$1.00/hour. The qualifications for the master lab journeyperson are a minimum of 10 years of Company lab experience and (i) the ability to repair, maintain, and install lab equipment; (ii) provide safety and fabrication training; (iii) travel as business needs require; and (iv) support Company initiatives regarding lab operations.

A lab journeyperson may request designation as a master lab journeyperson. The Company shall determine his/her eligibility for this master designation based on the criteria set forth in this provision through practical exams. The decisions made under this provision are subject to review in the grievance and arbitration procedure. The Company anticipates one Master Lab Journeyperson per region to be added as needed.

## ARTICLE 36 CLEAN UP TIME

Finish laboratory associates shall be granted fifteen (15) minutes clean up time and surface laboratory associates shall be granted twenty (20) minutes clean up time after finishing last job.

## ARTICLE 37 IUE COPE

Company agrees to deduct and transmit to IUE/CWA COPE each pay period such sums from the wages of associates as they voluntarily authorize on forms provided for that purpose by CWA Local 81408. These transmittals shall be accompanied by a list of names of those associates for whom such deductions have been made and the amount deducted for each such associate. Associates who wish to cancel their authorization for payroll deductions will sign a card supplied by the Union for that purpose.

#### **Article 38 Cambridge Eye - Deleted**

### **ARTICLE 38** **LABOR MANAGEMENT COMMITTEE**

The parties agree to establish a Labor-Management Committee and to participate in labor-management training conducted by the Federal Mediation and Conciliation Service (FMCS). In addition to other topics that may be addressed in these Labor-Management Committee meetings, the parties specifically agree to discuss workload and productivity issues.

### **ARTICLE 39** **CONTRACT DURATION**

This Agreement shall remain in full force and effect for a period commencing July 1, 2018 and ending June 30, 2021. The commencement of contract years of this Agreement are:

First Year	July 1, 2018
Second Year	July 1, 2019
Third Year	July 1, 2020

Notice of termination must be given by either party by certified mail, return receipt requested at least sixty (60) days, but not more than ninety (90) days prior to the expiration of this Agreement. Upon receipt of such notice, a conference shall be held within fifteen (15) days for the purpose of negotiating the extension, renewal or modification of this Agreement.

In witness whereof, the parties hereto have caused this Agreement to be executed by their proper officers and representatives thereunto duly authorized as of the day and year written.

Empire Vision Center, Inc.

IUE/CWA Local 81408

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Robert T. Cox  
Senior Vice President, Human Resources

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Jason Johnson  
President, CWA/IUE Local 81408

International IUE-CWA

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Joseph Giffi  
Regional Director, Region 3

## **Memorandum of Understanding**

### **Work Schedule**

- a. The Company recognizes that a schedule which includes 2 days off in a row may be preferred by some associates. Under Company policy, managers use their discretion to schedule based on the business needs of the location. Good faith effort in allowing 2 days off in a row will continue to be a consideration for managers in exercising their discretion to make scheduling decisions, consistent with the business needs of the location as those business needs change from time to time.
- b. If an associate's request for time off is denied, the GM, upon request, will provide an explanation of the business reason for the denial. If the associate desires further explanation for the Company's decision, he/she will discuss the matter with the Territory Director, who will review the situation and provide a further explanation. A union steward may be involved in the discussion with the Territory Director.

### **Chairs and seating**

1. The parties agree that when a customer enters a store, as a general rule s/he should be greeted by an Associate who is standing. They also recognize that when an Associate is working on a computer that is at a standard (as opposed to "standing") height desk, the Associate should be seated.
2. Acknowledging that the desk height and configuration is not the same in all retail locations, the parties agree that front desks with "wings" will have a chair at each wing,; and that front desks that are not completely "standing height," will have a chair at the lower height portion to use with a computer terminal or while servicing customers.

### **Drinking water**

1. The Company recognizes the need for potable drinking water for Associates working in retail locations. The Union recognizes that potable drinking water does not necessarily mean it comes from a water cooler or drinking fountain, acknowledging it can come from a sink and tap.
2. The Company commits to insuring there is potable water for Associates in each store. To the extent the Union asserts the water in a retail location is not safe or fit to drink, it will advise the Company. The Company will evaluate and, unless it is a short-term, temporary situation, the Company will provide drinking water through a means it deems appropriate, e.g., a water cooler, individual bottled water or some other means.

### **Air conditioning and ventilation in labs**

1. The Company acknowledges that a single HVAC system in a retail location may create temperature and ventilation issues in the lab. The Union recognizes that the Company is generally a tenant, without full control of HVAC issues.

2. The Company commits to taking reasonable steps to insuring there is adequate ventilation and temperature control in the store labs. To the extent the Union asserts the HVAC in a retail location lab is inadequate, it will advise the Company. The Company will evaluate the complaint and, to the extent it is meritorious, the Company will work with the landlord in an effort to address the concerns.